

ASSEMBLY BILL

No. 2351

**Introduced by Assembly Member Maze
(Coauthors: Assembly Members Cogdill, Houston, La Suer,
Leslie, Richman, and Spitzer)**

February 23, 2006

An act to amend Section 31641.2 of, and to add Sections 20899.5, 23007.5, 31640.7, 34095, 45309.5, and 50035 to, the Government Code, relating to retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2351, as introduced, Maze. Retirement: elected public officers: service credit.

Existing law provides for the creation and regulation of cities, counties, and cities and counties. Existing law permits these agencies to form retirement and pension systems, and also permits these agencies to become contracting members of the Public Employees' Retirement System. The Public Employees' Retirement System and the County Employees Retirement Law of 1937 permit certain members, under specified circumstances, to elect to receive additional service credit upon making required contributions. In this regard, the County Employees Retirement Law of 1937 permits a governing body to make portions of the required contributions on behalf of officers and employees.

This bill would prohibit the governing body of a city, county, or a city and county from granting credit for service to an elected officer or member for service that the elected officer or member has not performed. The bill would further prohibit these governing bodies from paying contributions for credit for service if an elected officer or

member has not performed the service, as specified. The bill would also make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 20899.5 is added to the Government
2 Code, to read:

3 20899.5. An elective officer of a contracting agency that is a
4 city, county, or city and county shall not receive credit for service
5 or contributions for credit for service in violation of the
6 prohibitions provided in Section 23007, 34095, or 50035.

7 SEC. 2. Section 23007.5 is added to the Government Code, to
8 read:

9 23007.5. (a) Notwithstanding any other provision of law:

10 (1) A county shall not grant credit for service to an elective
11 officer or member of the board of supervisors for service that the
12 elective officer or member has not performed.

13 (2) A county shall not pay contributions for credit for service
14 if an elective officer or member has not performed the service,
15 regardless of the fact that the elective officer or member of the
16 board of supervisors may personally elect to contribute for
17 additional credit for service.

18 (b) The prohibition provided by this section does not preclude
19 an elective officer or member of the board of supervisors from
20 choosing to receive credit for service in a retirement system by
21 paying his or her own contributions for that purpose pursuant to
22 the applicable provisions of the retirement system.

23 SEC. 3. Section 31640.7 is added to the Government Code, to
24 read:

25 31640.7. A member of a retirement system shall not receive
26 credit for service or contributions for credit for service in
27 violation of the prohibitions provided in Section 23007.5 or
28 50035.

29 SEC. 4. Section 31641.2 of the Government Code is amended
30 to read:

31 31641.2. Any member of the retirement system who elects
32 pursuant to Section 31641.1 to make contributions and receive
33 credit as service for time for which he claims credit because of

1 public service shall contribute to the retirement fund, prior to the
2 effective date of his retirement, by lump sum payment or by
3 installment payments over a period not to exceed five years, an
4 amount equal to the sum of:

5 (a) Twice the contributions he would have made to the
6 retirement fund if he had been a member during the same length
7 of time as that for which he has elected to receive credit as
8 service, computed by applying the rate of contribution first
9 applicable to him upon commencement of his membership in this
10 system to the monthly compensation first earnable by him at the
11 time as provided in Section 31641.3, multiplied by the number of
12 months for which he has elected to receive credit for county
13 service, including time, if any, prior to the establishment of the
14 system, and which will constitute current service under this
15 system.

16 (b) The “regular interest” which would have accrued to such
17 member contributions if they had been made on the date used to
18 determine on what earnable compensation contributions pursuant
19 to this section shall be based, from that date until the completion
20 of payment of those contributions, computed at the current
21 interest rate.

22 (c) ~~The~~ *Except as prohibited by Section 31640.7*, governing
23 body by a four-fifths vote may provide that it shall make on
24 behalf of officers and employees eligible to receive credit for
25 prior service under this chapter, and who so elect prior to filing
26 an application for retirement, part of the contributions specified
27 in paragraphs (a) and (b) of this section. The contributions made
28 by a governmental agency pursuant to this section shall be
29 available only for purposes of retirement for service or for
30 disability and a member resigning from county service shall be
31 entitled to withdraw only that portion of his accumulated
32 contributions made by him.

33 SEC. 5. Section 34095 is added to the Government Code, to
34 read:

35 34095. (a) Notwithstanding any other provision of law:

36 (1) The legislative body of a city shall not grant credit for
37 service to an elective officer for service that the elective officer
38 has not performed.

39 (2) The legislative body of a city shall not pay contributions
40 for credit for service if an elective officer has not performed the

1 service, regardless of the fact that the elected officer may
2 personally elect to contribute for additional credit for service.

3 (b) The prohibition provided by this section does not preclude
4 an elective officer from choosing to receive credit for service in a
5 retirement system by paying his or her own contributions for that
6 purpose pursuant to the applicable provisions of the retirement
7 system.

8 SEC. 6. Section 45309.5 is added to the Government Code, to
9 read:

10 45309.5. A member of a pension or retirement system
11 established pursuant to this chapter shall not receive credit for
12 service or contributions for credit for service in violation of the
13 prohibitions provided in Section 34095 or Section 50035.

14 SEC. 7. Section 50035 is added to the Government Code, to
15 read:

16 50035. (a) Notwithstanding any other provision of law:

17 (1) The legislative body of a city, county, or city and county
18 shall not grant credit for service to an elective officer for service
19 that the elective officer has not performed.

20 (2) The legislative body of a city, county, or city and county
21 shall not pay contributions for credit for service if an elective
22 officer has not performed the service, regardless of the fact that
23 the elected officer may personally elect to contribute for
24 additional credit for service.

25 (b) The prohibition provided by this section does not preclude
26 an elective officer from choosing to receive credit for service in a
27 retirement system by paying his or her own contributions for that
28 purpose pursuant to the applicable provisions of the retirement
29 system.